

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ROBERT JACKSON, JOSEPH McGRATH,	)	
and DERRELL SMITH,	)	
	)	
<i>Plaintiffs,</i>	)	
	)	No. 06 CV 493
-vs-	)	
	)	(Judge Coar)
SHERIFF OF COOK COUNTY,	)	
COOK COUNTY, ILLINOIS, AND	)	
DIRECTOR, CERMAK HEALTH SERVICES,	)	
	)	
<i>Defendants.</i>	)	

**CORRECTED AMENDED COMPLAINT**

Plaintiffs, by counsel, allege as follows:

1. This is a civil action arising under 42 U.S.C. §1983. The jurisdiction of this Court is conferred by 28 U.S.C. §1343.
2. Plaintiff Robert Jackson, Joseph McGrath, and Derrell Smith are residents of the Northern District of Illinois.
3. Defendants are the Sheriff of Cook County, Cook County, Illinois and the Director of Cermak Health Services. The Sheriff and Director are each sued in his (or her) official capacity, only.
4. On or about February 4, 2004, plaintiff Robert Jackson was admitted to the Cook County jail as a pre-trial detainee.
5. On or about December 27, 2005, Joseph McGrath was admitted to the Cook County jail as a pre-trial detainee.

6. On or about July 20, 2004, Derrell Smith was admitted to the Cook County jail as a pre-trial detainee.
7. As part of their admission to the jail, each plaintiff was subjected to the non-consensual insertion of a swab into his penis.
8. The insertion of a swab into each plaintiff's penis unreasonably invaded his privacy, constituted an unauthorized medical procedure, and caused each plaintiff personal injury and discomfort.
9. The insertion of a swab into each plaintiff's penis was conducted in a manner reasonably calculated to spread disease: the person who inserted the swab into each plaintiff's penis wore the same pair of rubber gloves when he inserted a swab into the penis of numerous other pre-trial detainees.
10. The insertion of a swab into the penis of pre-trial detainees was conducted in accordance with an explicit policy of the Sheriff of Cook County or an explicit policy of Cermak Health Services or, in the alternative, was a practice that was so permanent and well-settled at the Cook County Jail that it constitutes a custom or usage with the force of law.
11. As the direct and proximate result of the above referred policy, each plaintiff, and all other persons subjected to the above referred policy, incurred pain and suffering and was deprived of rights secured by the Fourth and Fourteenth Amendments.
12. Plaintiffs bring this action for a class of all male pre-trial detainees at the Cook County Jail who, on and after January 27, 2004, was subjected to the non-consensual insertion of a swab into his penis as part of his

admission to the jail. The proposed class satisfies each of the requirements of Rule 23(a) of the Federal Rules of Civil Procedure. The relief sought is appropriate damages for each person subjected to the policy and class certification is appropriate under Rules 23(b)(3).

13. Plaintiff hereby demands trial by jury.

Wherefore each plaintiff requests that judgment be entered in his favor in an amount in excess of one hundred thousand dollars, that judgment be entered in favor of the proposed class and that the Court grant such relief for the each member of the proposed class as may be appropriate.

/s/ Kenneth N. Flaxman

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## **CERTIFICATE OF SERVICE**

I hereby certify that on the 31st day of January, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: NONE and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: NONE.

/s/ Kenneth N. Flaxman

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